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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/069,755 | 02/28/2002 | Yoshimitsu Iida | IIDA=20 | 3713 |

1444 7590 08/01/2003

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| EXAMINER |
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WEBMAN, EDWARD J

| ART UNIT | PAPER NUMBER |
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1617

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069755

Applicant(s)

1, 2A

Examiner

WEBMAN

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/29/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-6, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 3264532 (JP '532) in view of US 4693892 (US '892) JP 63-166824 (JP '824) and JP 63215641 (JP '641).

JP '532 teaches soft capsules containing an active vitamin D.

US '892 teaches capsules which have an outstanding light protection effect (column 2 lines 23-24). Soft capsules comprising titanium dioxide and red or yellow iron oxide (examples 6, 7).

It would have been obvious to one of ordinary skill to use the soft capsule of US '892 as the soft capsule for JP '532 for the beneficial effect of its Property of protection from light. As to the claimed triglyceride, JP '824 teaches such as a carrier. *for vitamin D in soft capsules* As to the claimed caramel, JP '641 teaches such for light shielding in soft capsules. It would have been obvious to one of ordinary skill to add caramel to the soft capsule of JP '532 for its beneficial effect as additional light shielding in view of JP '641. *and to use a fatty acid glyceride in JP '532 for its beneficial effect as a carrier for* Claims 2, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP

'532 in view of JP 55141242 (JP '242), US '892 and JP '641.

JP '532 is described in the first 103.

JP '242 teaches titanium dioxide and caramel in capsules for safe coloring (abstract).

vitamin D in view of JP '824

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It would have been obvious to one of ordinary skill to use titanium dioxide and caramel in the soft capsule of JP '532 for the beneficial effect of providing soft capsule, *safe coloring. As to the claimed* US '892 and JP '641, both described in the first 103, teach the use of titanium dioxide and caramel respectively in soft capsules.

Claims 1, 4-6, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '532 in view of JP 4046122 (JP '122), JP '641 and US '892.

JP '532 is discussed in the first 103.

JP '122 teach activated vitamin D in Fatty acid triglyceride in a capsule containing red iron oxide and an opacifier such as titanium white to maintain stability of the vitamin (abstract).

It would have been obvious to one of ordinary skill to use the soft capsule composition of JP '122 as the vehicle for JP '122 to achieve the beneficial effect of stability of the vitamin.

As to the use of red iron oxide and titanium dioxide in soft capsules, US '892, described in the first 103, teaches such.

As to the claimed caramel, JP '641 described in the first 103, teaches such for light shielding in soft capsules.

It would have been obvious to one of ordinary skill to add caramel to the soft capsule of JP '532 for its beneficial effect of providing additional light shielding.

No claims allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (703) 308-4432. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (703) 305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3592 for regular communications and (703) 305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Webman/LR
July 15, 2003

EDWARD WEBMAN
TELEPHONE NUMBER
308-4432